

HOUSE BILL REPORT

HB 1822

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to custodial interference.

Brief Description: Increasing the penalty for custodial interference 1.

Sponsors: Representatives Ballasiotes, O'Brien and Lovick.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/23/01, 2/26/01 [DP].

Brief Summary of Bill

- Places the unranked crime of first degree custodial interference on the seriousness level table as a level VII offense.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Ahern, Republican Vice Chair; Lovick, Democratic Vice Chair; Cairnes, Kagi, Kirby and Morell.

Staff: Trudes Hutcheson (786-7384).

Background:

There are three ways a person may commit the crime of custodial interference in the first degree.

First, a relative of a child under 18 or relative of an incompetent person commits first degree custodial interference if he or she takes, entices, retains, detains, or conceals that person from someone having a lawful right to physical custody, with the intent to deny the person having lawful custody access to the person taken and the relative:

- a) intends to hold the taken person permanently or for a protracted period; or
- b) exposes the taken person to a substantial risk of illness or physical injury; or

- c) causes the taken person to be removed from the state of usual residence; or
- d) retains the taken person in another state after expiration of any authorized visitation period, with intent to intimidate or harass the person who has lawful right to physical custody or to prevent that person from regaining custody.

The crime may also be committed if a parent, or person acting under direction of a parent, takes, entices, retains, or conceals a child under the age of 18 from the other parent and there was no lawful custody order at the time. The person must have the intent to deprive the other parent access to the child permanently or for a protracted period.

If a lawful parenting plan or custody order exists, a parent commits first degree custodial interference if the parent takes, entices, retains, detains, or conceals the child, with the intent to deny access, from the other parent having the lawful right to time with the child pursuant to the parenting plan or order and the parent:

- a) intends to hold the child permanently or for a protracted period;
- b) exposes the child to a substantial risk of illness or physical injury; or
- c) causes the child to be removed from the state of usual residence.

Custodial interference is a class C felony. It is an unranked felony and is not included in the Seriousness Level table. An offender convicted of an unranked felony is not subject to the standard sentence ranges established in the Sentencing Reform Act. Courts are required to impose a determinate sentence which may include not more than one year of confinement and may also include community service, financial obligations, a term of community supervision not to exceed one year, and a fine.

The presumptive sentence range for a level VII offender with no prior criminal history is 15 to 20 months.

Summary of Bill:

The crime of first degree custodial interference is included as a seriousness level VII offense on the Sentencing Reform Act table.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: When parents abduct children, nobody thinks it's very serious. People

don't realize that in parental abduction, the child suffers a great deal. It's an act of abuse, not love. If the crime is raised to a seriousness level VII, it can have more consequences and the punishment will better fit the crime. The parent who is abducting the child often does not act in the child's best interest. The children are sometimes kept prisoner. Police don't always take it seriously because they have the impression that the child is just "having a good time" with the other parent. But there are more victims than just the child. Everyone in the family suffers and worries when this happens. Make parents who commit crimes against children be accountable for their actions.

Testimony Against: None.

Testified: Representative Ballasiotes, prime sponsor; Pam Fernald and Tamara Graber, citizens.